

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

April 5, 2007

A meeting of the Board of Environmental Protection was held on Thursday, April 5, 2007 at the Augusta Civic Center, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at **11:30 a.m.** with the following individuals present:

**Board:** Ernest Hilton, M. Wing Goodale, Denis Culley, Elizabeth Ehrenfeld, Donald Guimond, Richard Gould, Nancy Ziegler, Matt Scott and Virginia Plummer

**Absent:** Nancy Anderson

<b><u>Staff:</u></b>	Bureau of Air Quality	Bryce Sproul
	Office of the Commissioner	Jim Dusch
	Bureau of Air Quality	Marc Cone
	Bureau of Air Quality	Deb Avalone-King
	Bureau of Remediation and Waste Management	Joan Jones
	Bureau of Remediation and Waste Management	Carla Hopkins
	Bureau of Land and Water Quality	Danielle Obery
	Bureau of Air Quality	Melissa Morrill

**Others:** David P. Littell, Commissioner  
Jerry Reid, Assistant Attorney General  
Jan McClintock, Assistant Attorney General (Dragon Deliberative Session Only)  
Cynthia S. Bertocci, BEP Executive Analyst  
Terry Hanson, Administrative Assistant

***(Meeting adjourned at approximately 4:00 p.m.)***

### **III. Regular Agenda**

1. RED SHIELD ENVIRONMENTAL, LLC / License Transfers Air, Site Location, Solid Waste, Wastewater, Tax Exemption Certification and Air Emission License Amendment A-180-71-AP-A (appeal by D. Gibbs, E. Spencer, C Leithiser)

Staff: James E. Dusch, Office of the Commissioner

Staff: Marc Cone, Bureau of Air Quality

The Board voted (8-0-1-1) on a motion to deny the appeal and affirm the Commissioner's decision to transfer the air, site location, solid waste, and wastewater licenses and tax exemption certifications for the Old Town facility from Fort James Operating Company to Red Shield Environmental LLC. The vote was taken pursuant to 38 M.R.S.A. §413 et seq., § 418 et seq, §581 et seq and §1301 et seq, and 06-096 CMR Chapter 2 (Rules Concerning the Processing of Applications).

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Denis Culley abstained. Board member Nancy Anderson was absent.*

The Board voted (9-0-0-1) on a motion to deny the appeal and affirm the Commissioner's decision granting a time extension for the interim carbon monoxide limit (A-180-71-AP-A Air Emission License Amendment #23.) The vote was taken pursuant to 38 M.R.S.A. §341-D(4) and §590 and 06-096 CMR Chapters 115 (Major and Minor Source Air Emission Regulations) and Chapter 2 (Rules Concerning the Processing of Applications).

*Board members Board members Denis Culley, Elizabeth Ehrendfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler and voted to support the motion. Board member Nancy Anderson was absent.*

### **II CONSENT AGENDA ITEMS**

Board voted (8-0-0-2) to table consent agenda item 1 (Chemrock) and to approve consent agenda items 2 through 12 as presented.

*Board members Denis Culley, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson was absent; Ernest Hilton was out of the room at the time of the vote.*

1. CHEMROCK, Thomaston – Administrative Consent Agreement (BAQ) Tabled
2. INTERNATIONAL PAPER COMPANY, Jay – Administrative Consent Agreement (BAQ)
3. STEVE MCGEE CONSTRUCTION, LLC a/k/a MCGEE CONSTRUCTION, LLC MCGEE ON ROAD EQUIPMENT, LLC, Augusta, Monmouth, West Gardiner – Administrative Consent Agreement and Enforcement Order (OC)
4. TOWER TRANSPORTATION, LLC, Kittery – Administrative Consent Agreement and Enforcement Order (BRWM)

5. SWANS ISLAND ELECTRIC COOPERATIVE, INC, Swans Island – Administrative Consent Agreement and Enforcement Order (BRWM)
6. JLC MINING, Kingfield – Administrative Consent Agreement (BLWQ – Land)
7. DALE HENDERSON LOGGING, INC., Dedham – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
8. JIMMIE W. AWALT, Blue Hill – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
9. TOWN OF LEBANON, Lebanon – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
10. BONNIE TOMPKINS, Oxford – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
11. CIANCHETTE FAMILY LLC, Falmouth – Administrative Consent Agreement (BLWQ – Land)
12. PAUL GRAVEL, Poland – Administrative Consent Agreement (BLWQ – Land)

### **III. Regular Agenda (continued)**

2. PORTSMOUTH NAVAL SHIPYARD – UNITED STATES DEPARTMENT OF THE NAVY, KITTERY // COMMERCIAL HAZARDOUS WASTE STORAGE FACILITY RENEWAL (approval) -- Staff: Joan M. Jones, Bureau of Remediation and Waste Management

The Board voted (9-0-0-1) on a motion to approve Portsmouth Naval Shipyard commercial hazardous waste storage facility renewal O-005-HA-Q-R as proposed. The vote was taken pursuant to 38 M.R.S.A. §341-D(2) and §1301 et seq.

*Board members Denis Culley, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.*

3. CHAPTER 139, TRANSPORTATION CONFORMITY / NEW (post to public hearing)  
Staff: Melissa Morrill, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to post new Chapter 139, Transportation Conformity to public hearing on May 17, 2007. The vote was taken pursuant to 38 M.R.S.A. §341-D(1-B), §585 and §585-A; and Clean Air Act Section 176 (c).

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson was absent and Denis Culley was out of the room at the time of the vote.*

### **THE BOARD RECONVENED AT 2:20 P.M. TO CONDUCT A PUBLIC HEARING IN THE MATTER OF:**

CHAPTER 121, EMISSION LIMITATIONS AND EMISSION TESTING OF  
RESOURCE RECOVERY FACILITIES (and) STATE OF MAINE 111(d)  
MUNICIPAL WASTE COMBUSTOR STATE PLAN FOR LARGE AND SMALL  
(CLASS I & II) FACILITIES / REPEAL AND REPLACE

### III. REGULAR AGENDA (CONTINUED)

4. DRAGON PRODUCTS COMPANY SOLID WASTE FACILITY LICENSE APPLICATIONS [S-020777-WO-B-N and S-020778-WO-C-N] and NATURAL RESOURCES PROTECTION ACT APPLICATION [L-04152-TH-T-N] (deliberative session)

Staff: Cynthia Bertocci, BEP Executive Analyst

Staff: Carla Hopkins, Bureau of Remediation and Waste Management

Staff: Danielle Obery, Bureau of Land and Water Quality

### I. DEPARTMENTAL

Commissioner Littell reported the following:

Legislative: A list of initiatives and Bond summary will be provided at the next regular meeting.

Red Shield: The Department has requested that Red Shield temporarily stop the burning of CDW (construction demolition debris wood) until they fix the air emission problems and ash disposal matter. Red Shield must also brief the Department on the ash disposal situation.

[Air] Red Shield caused soot impacts to a nearby community, but has since repaired the air pollution control equipment. The Department is treating the soot impacts as an enforcement matter and has issued a notice of violation and will implement enforcement action in the form of remedies and penalties. [At the time that the plant was shut down, electricity was of high value and the company lost significant income.]

[Solid Waste Disposal] Red Shield improperly disposed of ash that was found to be hazardous waste. Following compliance with the Department's extensive data request, information associated with ash test results from February showed toxic levels of lead (above 5 milligrams). To verify the results, comparative composites of the same samples were tested and demonstrated that the original levels were accurate. The remaining ash was also tested and some of the containers were found to be toxic. Those containers will be disposed of as a hazardous waste.

### QUESTION:

Board member Ernest Hilton asked if the ash was derived from the burning of CDW.

*Commissioner Littell confirmed that the remaining ash was from the burning of CDW and that the Department had asked Red Shield to test the ash from the burning of green wood for comparison purposes.*